

AN ACT

RELATING TO MOTOR VEHICLES; UPDATING THE DEFINITION OF "COMMERCIAL MOTOR CARRIER VEHICLE" AND "COMMERCIAL MOTOR VEHICLE" IN CERTAIN SECTIONS OF THE MOTOR TRANSPORTATION ACT AND THE MOTOR VEHICLE CODE IN ORDER TO COMPLY WITH FEDERAL REGULATIONS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 65-1-2 NMSA 1978 (being Laws 1978, Chapter 19, Section 1, as amended) is amended to read:

"65-1-2. DEFINITIONS.--As used in the Motor Transportation Act:

A. "combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers or semitrailers converted to trailers by means of a converter gear;

B. "combination gross vehicle weight" means the sum total of the gross vehicle weights of all units of a combination;

C. "commercial motor carrier vehicle" means a self-propelled or towed vehicle, other than special mobile equipment, used on public highways in commerce to transport passengers or property when the vehicle:

(1) is operated interstate and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of four thousand five hundred thirty-six kilograms, or ten thousand one pounds or more; or is operated only in intrastate commerce and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination

H
B
3
4
7
P

weight, of twenty-six thousand one or more pounds;

(2) is designed or used to transport more than eight passengers, including the driver, and is used to transport passengers for compensation;

(3) is designed or used to transport more than fifteen passengers, including the driver, and is not used to transport passengers for compensation; or

(4) is used to transport hazardous materials of the type or quantity requiring placarding under rules prescribed by applicable federal or state law;

D. "converter gear" means any assemblage of one or more axles with a fifth wheel mounted thereon designed for use in a combination to support the front end of a semitrailer, but not permanently attached thereto. A "converter gear" shall not be considered a vehicle as that term is used in Chapter 66 NMSA 1978, but weight attributable thereto shall be included in declared gross weight;

E. "declared gross weight" means maximum gross vehicle weight or combination gross vehicle weight at which a vehicle or combination will be operated during the registration period as declared by the registrant for registration and fee purposes. The vehicle or combination shall have only one "declared gross weight" for all operating considerations;

F. "department", without modification, means the department of public safety, the secretary of public safety or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

G. "director" means the secretary;

H. "division" means the motor transportation division of the department;

H
B
3
4
7
P

I. "evidence of registration" means documentation issued by the taxation and revenue department identifying a motor carrier vehicle as being registered with New Mexico or documentation issued by another state pursuant to the terms of a multistate agreement on registration of vehicles to which this state is a party identifying a motor carrier vehicle as being registered with that state; provided that evidence of payment of the weight distance tax and permits obtained under either the Special Fuels Supplier Tax Act or Trip Tax Act are not "evidence of registration";

J. "field enforcement" or "in the field" means patrolling of the highway, stopping of commercial motor carrier vehicles or establishing ports of entry and roadblocks for the purpose of checking motor carriers and includes similar activities;

K. "freight trailer" means any trailer, semitrailer or pole trailer drawn by a truck tractor or road tractor and any trailer, semitrailer or pole trailer drawn by a truck that has a gross vehicle weight of more than twenty-six thousand pounds, but the term does not include house trailers, trailers of less than one-ton carrying capacity used to transport animals or fertilizer trailers of less than three thousand five hundred pounds empty weight;

L. "gross vehicle weight" means the weight of a vehicle without load plus the weight of any load thereon;

M. "motor carrier" means any person that owns, controls, operates or manages any motor vehicle with gross vehicle weight of twelve thousand pounds or more that is used to transport persons or property on the public highways of this state;

N. "motor vehicle" means any vehicle or device that is propelled by an internal combustion engine or electric motor power that is used or may be used on the public highways for the purpose of transporting persons or property and includes any

H
B
3
4
7
P

connected trailer or semitrailer;

O. "one-way rental fleet" means two or more vehicles each having a gross vehicle weight of under twenty-six thousand one pounds and rented to the public without a driver;

P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or an agency, department or instrumentality thereof; "person" also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

Q. "properly registered" means bearing the lawfully issued and currently valid evidence of registration of this or another jurisdiction, regardless of the owner's residence, except in those cases where the evidence has been procured by misrepresentation or fraud;

R. "public highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction;

S. "secretary" means the secretary of public safety and, except for the purposes of 65-1-33 NMSA 1978, also includes the deputy secretary and any division director delegated by the secretary;

T. "state" or "jurisdiction" means a state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, a foreign

H
B
3
4
7
P

country or a state or province of a foreign country; and

U. "utility trailer" means any trailer, semitrailer or pole trailer and includes house trailers that exceed neither eight feet in width nor forty feet in length, but does not include freight trailers, trailers of less than one-ton carrying capacity used to transport animals or fertilizer trailers of less than three thousand five hundred pounds empty weight."

Section 2. Section 65-3-3 NMSA 1978 (being Laws 1989, Chapter 201, Section 4, as amended) is amended to read:

"65-3-3. APPLICABILITY.--

A. Notwithstanding any provision of the Motor Vehicle Code to the contrary, the provisions of the Motor Carrier Safety Act and the regulations promulgated under that act shall apply to a commercial motor carrier vehicle operating on the public highways of New Mexico of a type that:

(1) is operated interstate and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of four thousand five hundred thirty-six kilograms, or ten thousand one pounds or more; or is operated only in intrastate commerce and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of twenty-six thousand one or more pounds;

(2) is designed or used to transport more than eight passengers, including the driver, and is used to transport passengers for compensation;

(3) is designed or used to transport more than fifteen passengers, including the driver, and is not used to transport passengers for

H
B
3
4
7
P

compensation; or

(4) is used to transport hazardous materials of the type or quantity requiring placarding under rules prescribed by applicable federal or state law.

B. Whenever a commercial motor carrier vehicle of one type is used to perform the functions normally performed by a motor vehicle of another type, the requirements of the Motor Carrier Safety Act shall apply to that motor vehicle and to its operation as if that motor vehicle were actually a motor vehicle of the latter type.

C. Whenever a duty is prescribed for a driver or a prohibition is imposed upon the driver pursuant to the provisions of the Motor Carrier Safety Act, it shall be the duty of the motor carrier to require observance of such prescription or prohibition. If the motor carrier is also the driver, the motor carrier shall likewise be bound."

Section 3. Section 66-1-4.3 NMSA 1978 (being Laws 1990, Chapter 120, Section 4, as amended) is amended to read:

"66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "camping body" means a vehicle body primarily designed or converted for use as temporary living quarters for recreational, camping or travel activities;

B. "camping trailer" means a camping body, mounted on a chassis, or frame with wheels, designed to be drawn by another vehicle and that has collapsible partial side walls that fold for towing and unfold at the campsite;

C. "cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to the license, but cancellation of a license is without prejudice, and application

H
B
3
4
7
P

for a new license may be made at any time after cancellation;

D. "casual sale" means the sale of a motor vehicle by the registered owner of the vehicle if the owner has not sold more than four vehicles in that calendar year;

E. "chassis" means the complete motor vehicle, including standard factory equipment, exclusive of the body and cab;

F. "collector" means a person who is the owner of one or more vehicles of historic or special interest who collects, purchases, acquires, trades or disposes of these vehicles or parts thereof for the person's own use in order to preserve, restore and maintain a similar vehicle for hobby purposes;

G. "combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers or semitrailers converted to trailers by means of a converter gear;

H. "combination gross vehicle weight" means the sum total of the gross vehicle weights of all units of a combination;

I. "commerce" means the transportation of persons, property or merchandise for hire, compensation, profit or in the furtherance of a commercial enterprise in this state or between New Mexico and a place outside New Mexico, including a place outside the United States;

J. "commercial motor vehicle" means a self-propelled or towed vehicle, other than special mobile equipment, used on public highways in commerce to transport passengers or property when the vehicle:

(1) is operated interstate and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination

H
B
3
4
7
P

weight, of four thousand five hundred thirty-six kilograms, or ten thousand one pounds or more; or is operated only in intrastate commerce and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of twenty-six thousand one or more pounds;

(2) is designed or used to transport more than eight passengers, including the driver, and is used to transport passengers for compensation;

(3) is designed or used to transport more than fifteen passengers, including the driver, and is not used to transport passengers for compensation; or

(4) is used to transport hazardous materials of the type or quantity requiring placarding under rules prescribed by applicable federal or state law;

K. "controlled-access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street or roadway except at those points only and in the manner as may be determined by the public authority having jurisdiction over the highway, street or roadway;

L. "controlled substance" means any substance defined in Section 30-31-2 NMSA 1978 as a controlled substance;

M. "converter gear" means any assemblage of one or more axles with a fifth wheel mounted thereon, designed for use in a combination to support the front end of a semitrailer but not permanently attached thereto. A converter gear shall not be considered a vehicle, as that term is defined in Section 66-1-4.19 NMSA 1978, but weight attributable thereto shall be included in declared gross weight;

H
B
3
4
7
P

N. "conviction" means the alleged violator has entered a plea of guilty or nolo contendere or has been found guilty in the trial court and has waived or exhausted all rights to an appeal;

O. "crosswalk" means:

(1) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and

(2) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface; and

P. "curb cut" means a short ramp through a curb or built up to the curb."

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, ~~2004~~ 2007.